

**BEFORE THE UNITED STATES JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

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IN RE TEXAS PRISON HEAT  
LITIGATION

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MDL Docket No. \_\_\_\_\_

**EXHIBIT 13 TO MOTION OF DEFENDANTS FOR TRANSFER  
OF ACTIONS TO THE SOUTHERN DISTRICT OF TEXAS PURSUANT  
TO 28 U.S.C. § 1407 FOR COORDINATED OR CONSOLIDATED  
PRETRIAL PROCEEDINGS**

***TOGONIDZE DOCKET***

CONSOL,STAYED

**U.S. District Court [LIVE]  
Eastern District of TEXAS (Tyler)  
CIVIL DOCKET FOR CASE #: 6:14-cv-00093-JDL**

Togonidze et al v. Livingston et al  
Assigned to: Magistrate Judge John D. Love  
Lead case: [6:13-cv-00711-JDL](#)  
Member case: [\(View Member Case\)](#)  
Case in other court: Texas Southern, 3:13-cv-00229  
Cause: 42:1983 Civil Rights Act

Date Filed: 02/12/2014  
Jury Demand: Plaintiff  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Gwen Togonidze**  
*as Next Friend of J.T., a Minor*

represented by **Gwen Togonidze**  
PRO SE

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**Plaintiff****J.T.***a Minor*

represented by **Jeffrey Scott Edwards**  
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**Brian Rolland McGiverin**

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**Wayne Nicholas Krause**

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**Scott Medlock**

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V.

**Defendant****Brad Livingston**

represented by **Bruce Russell Garcia**  
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**Defendant****Warden Rick Thaler**

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**Defendant****William Stephens**

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**Defendant****Robert Eason**

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**Defendant**

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**Matthew James Greer**  
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**Defendant**

**Texas Department of Criminal  
Justice**

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**Matthew James Greer**  
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**Defendant**

**University of Texas Medical  
Branch**

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**Defendant****Owen Murray**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
06/21/2013	<u>1</u>	COMPLAINT against Robert Eason, Todd Foxworth, Brad Livingston, William Stephens, Texas Department of Criminal Justice, Rick Thaler, University of Texas Medical Branch (Filing fee \$ 400 receipt number 0541-11605927) filed by J.T., Gwen Togonidze. (Attachments: # <u>1</u> Civil Cover Sheet)(Medlock, Scott) [Transferred from Texas Southern on 2/12/2014.] (Entered: 06/21/2013)
06/21/2013	<u>2</u>	Request for Issuance of Summons as to All Defendants, filed.(Medlock, Scott) [Transferred from Texas Southern on 2/12/2014.] (Entered: 06/21/2013)
06/25/2013		Summons Issued as to Robert Eason, Todd Foxworth, Brad Livingston, William Stephens, Texas Department of Criminal Justice, Rick Thaler, University of Texas Medical Branch.(dwilkerson, ) [Transferred from Texas Southern on 2/12/2014.] (Entered: 06/25/2013)
06/25/2013		Document(s) Sent - Summons sent by regular mail to Scott Medlock re: <u>2</u> Summons - Request for Issuance. (dwilkerson, ) [Transferred from Texas Southern on 2/12/2014.] (Entered: 06/25/2013)
06/26/2013	<u>3</u>	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 10/2/2013 at 11:00 AM in by telephone before Judge Gregg Costa(Signed by Judge Gregg Costa) Parties notified.(dwilkerson, ) [Transferred from Texas Southern on 2/12/2014.] (Entered: 06/26/2013)
07/10/2013	<u>4</u>	CERTIFICATE OF INTERESTED PARTIES by J.T., Gwen Togonidze, filed. (Medlock, Scott) [Transferred from Texas Southern on 2/12/2014.] (Entered: 07/10/2013)

07/22/2013	<u>5</u>	MOTION to Dismiss <i>Under FRCP 12(b)(6)</i> by University of Texas Medical Branch, filed. Motion Docket Date 8/12/2013. (Attachments: # <u>1</u> Proposed Order)(Coogan, Kim) [Transferred from Texas Southern on 2/12/2014.] (Entered: 07/22/2013)
07/22/2013	<u>6</u>	CERTIFICATE OF INTERESTED PARTIES by University of Texas Medical Branch, filed.(Coogan, Kim) [Transferred from Texas Southern on 2/12/2014.] (Entered: 07/22/2013)
07/31/2013	<u>7</u>	ANSWER to <u>1</u> Complaint, by Robert Eason, Todd Foxworth, filed.(Garcia, Bruce) [Transferred from Texas Southern on 2/12/2014.] (Entered: 07/31/2013)
07/31/2013	<u>8</u>	MOTION to Dismiss <i>Under FRCP 12(B)(6)</i> by Texas Department of Criminal Justice, filed. Motion Docket Date 8/21/2013. (Attachments: # <u>1</u> Proposed Order)(Garcia, Bruce) [Transferred from Texas Southern on 2/12/2014.] (Entered: 07/31/2013)
07/31/2013	<u>9</u>	MOTION to Transfer Case to USDC, Eastern District, Tyler Division by Robert Eason, Todd Foxworth, Brad Livingston, William Stephens, Texas Department of Criminal Justice, Rick Thaler, filed. Motion Docket Date 8/21/2013. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Proposed Order)(Garcia, Bruce) [Transferred from Texas Southern on 2/12/2014.] (Entered: 07/31/2013)
08/02/2013	<u>10</u>	RESPONSE to <u>5</u> MOTION to Dismiss <i>Under FRCP 12(b)(6)</i> filed by J.T., Gwen Togonidze. (Edwards, Jeffrey) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/02/2013)
08/02/2013	<u>11</u>	NOTICE of Appearance by Matthew J. Greer on behalf of Robert Eason, Todd Foxworth, Texas Department of Criminal Justice, filed. (Greer, Matthew) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/02/2013)
08/06/2013	<u>12</u>	NOTICE of <i>Vacation</i> by J.T., Gwen Togonidze, filed. (Medlock, Scott) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/06/2013)
08/07/2013	<u>13</u>	Motion for Leave to File First AMENDED Complaint with Jury Demand against All Defendants filed by J.T., Gwen Togonidze. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Proposed Order)(Edwards, Jeffrey) Modified on 8/9/2013 (ccarnew, ). [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/07/2013)
08/12/2013	<u>14</u>	REPLY to Response to <u>5</u> MOTION to Dismiss <i>Under FRCP 12(b)(6)</i> , filed by University of Texas Medical Branch. (Coogan, Kim) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/12/2013)
08/14/2013	<u>15</u>	RESPONSE to <u>13</u> MOTION for Leave to File filed by University of Texas Medical Branch. (Coogan, Kim) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/14/2013)
08/15/2013	<u>16</u>	NOTICE of <i>Appearance as Co-Counsel</i> by University of Texas Medical Branch, filed. (Molinare, Shanna) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/15/2013)
08/15/2013	<u>17</u>	RESPONSE to <u>8</u> MOTION to Dismiss <i>Under FRCP 12(B)(6)</i> filed by J.T., Gwen Togonidze. (Medlock, Scott) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/15/2013)



08/16/2013	<u>18</u>	MOTION for Extension of Time to File Response to TDCJ Defendants' Motion to Transfer Venue by J.T., Gwen Togonidze, filed. Motion Docket Date 9/6/2013. (Attachments: # <u>1</u> Proposed Order)(Medlock, Scott) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/16/2013)
08/16/2013	<u>19</u>	ORDER granting <u>18</u> Plaintiff's Unopposed Motion to Extend Time to File Response to TDCJ Defendants' Motion to Transfer Venue. Responses due by 9/12/2013. (Signed by Judge Gregg Costa.) Parties notified. (yhausmann, ) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/16/2013)
08/22/2013	<u>20</u>	REPLY to <u>17</u> Response to Motion to Dismiss Under FRCP 12(b)(6), filed by Texas Department of Criminal Justice. (Greer, Matthew) [Transferred from Texas Southern on 2/12/2014.] (Entered: 08/22/2013)
09/04/2013	<u>21</u>	REPLY to Response to <u>13</u> MOTION for Leave to File, filed by J.T., Gwen Togonidze. (Medlock, Scott) [Transferred from Texas Southern on 2/12/2014.] (Entered: 09/04/2013)
09/05/2013	<u>22</u>	NOTICE of Appearance by Lacey E. Mase on behalf of University of Texas Medical Branch, filed. (Mase, Lacey) [Transferred from Texas Southern on 2/12/2014.] (Entered: 09/05/2013)
09/12/2013	<u>23</u>	RESPONSE to <u>9</u> MOTION to Transfer Case to USDC, Eastern District, Tyler Division filed by J.T., Gwen Togonidze. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, Part 1, # <u>4</u> Exhibit C, Part 2, # <u>5</u> Exhibit C, Part 3)(Medlock, Scott) [Transferred from Texas Southern on 2/12/2014.] (Entered: 09/12/2013)
09/19/2013	<u>24</u>	NOTICE of Resetting as to <u>3</u> Order for Initial Conference & Disclosure-FORM-Judge Costa. Parties notified. Initial Conference reset for 10/2/2013 at 11:00 AM in Sixth Floor Courtroom before Judge Gregg Costa, filed. (dwilkerson, 3) [Transferred from Texas Southern on 2/12/2014.] (Entered: 09/19/2013)
09/25/2013	<u>25</u>	NOTICE Defendant UTMB's Notice of Co-Counsel by University of Texas Medical Branch, filed. (Hime, Erika) [Transferred from Texas Southern on 2/12/2014.] (Entered: 09/25/2013)
09/30/2013	<u>26</u>	Joint REPLY to Response to <u>9</u> MOTION to Transfer Case to USDC, Eastern District, Tyler Division, filed by Robert Eason, Todd Foxworth, Brad Livingston, William Stephens, Texas Department of Criminal Justice, Rick Thaler. (Attachments: # <u>1</u> Exhibit B)(Garcia, Bruce) [Transferred from Texas Southern on 2/12/2014.] (Entered: 09/30/2013)
10/02/2013		Minute Entry for proceedings held before Judge Gregg Costa. SCHEDULING CONFERENCE held on 10/2/2013. <u>9</u> Motion to Transfer is taken under advisement. No Scheduling Order to issue at this time. Appearances: Matthew J Greer, Jeffrey S Edwards, Kim J Coogan, Erika Danielle Hime.(Court Reporter: Heather Hall), filed.(Iusmith, 3) [Transferred from Texas Southern on 2/12/2014.] (Entered: 10/02/2013)
10/22/2013	<u>27</u>	NOTICE of attorney substitution by Brad Livingston, William Stephens, Rick Thaler. Attorney Bruce R Garcia terminated, filed. (Anastasiadis, Demetri) [Transferred from Texas Southern on 2/12/2014.] (Entered: 10/22/2013)



10/24/2013	<u>28</u>	ADVISORY by Robert Eason, Todd Foxworth, Texas Department of Criminal Justice, filed.(Garcia, Bruce) [Transferred from Texas Southern on 2/12/2014.] (Entered: 10/24/2013)
10/30/2013	<u>29</u>	Opposed MOTION to Stay <i>and Objections to Plaintiff's Discovery Submitted to Defendants Livingston, Stephens and Thaler</i> by Brad Livingston, William Stephens, Rick Thaler, filed. Motion Docket Date 11/20/2013. (Attachments: # <u>1</u> Proposed Order)(Anastasiadis, Demetri) [Transferred from Texas Southern on 2/12/2014.] (Entered: 10/30/2013)
11/01/2013	<u>30</u>	MOTION to Dismiss <i>on the Basis of Qualified Immunity</i> by Brad Livingston, William Stephens, Rick Thaler, filed. Motion Docket Date 11/22/2013. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Proposed Order)(Anastasiadis, Demetri) [Transferred from Texas Southern on 2/12/2014.] (Entered: 11/01/2013)
11/20/2013	<u>31</u>	RESPONSE to <u>29</u> Opposed MOTION to Stay <i>and Objections to Plaintiff's Discovery Submitted to Defendants Livingston, Stephens and Thaler</i> filed by J.T., Gwen Togonidze. (Attachments: # <u>1</u> Proposed Order)(Edwards, Jeffrey) [Transferred from Texas Southern on 2/12/2014.] (Entered: 11/20/2013)
11/22/2013	<u>32</u>	RESPONSE to <u>30</u> MOTION to Dismiss <i>on the Basis of Qualified Immunity</i> filed by J.T., Gwen Togonidze. (Attachments: # <u>1</u> Proposed Order)(Edwards, Jeffrey) [Transferred from Texas Southern on 2/12/2014.] (Entered: 11/22/2013)
11/22/2013	<u>33</u>	REPLY to Response to <u>29</u> Opposed MOTION to Stay <i>and Objections to Plaintiff's Discovery Submitted to Defendants Livingston, Stephens and Thaler</i> , filed by Brad Livingston, William Stephens, Rick Thaler. (Attachments: # <u>1</u> Exhibit 1 part 1 of 2, # <u>2</u> Exhibit 1 part 2 of 2, # <u>3</u> Exhibit 2)(Anastasiadis, Demetri) [Transferred from Texas Southern on 2/12/2014.] (Entered: 11/22/2013)
11/26/2013	<u>34</u>	NOTICE of Appearance by Brian McGiverin on behalf of J.T., Gwen Togonidze, filed. (McGiverin, Brian) [Transferred from Texas Southern on 2/12/2014.] (Entered: 11/26/2013)
11/26/2013	<u>35</u>	NOTICE of Appearance by Wayne Krause-Yang on behalf of J.T., Gwen Togonidze, filed. (Krause, Wayne) [Transferred from Texas Southern on 2/12/2014.] (Entered: 11/26/2013)
12/05/2013	<u>36</u>	REPLY to Response to <u>30</u> MOTION to Dismiss <i>on the Basis of Qualified Immunity</i> , filed by Brad Livingston, William Stephens, Rick Thaler. (Anastasiadis, Demetri) [Transferred from Texas Southern on 2/12/2014.] (Entered: 12/05/2013)
12/19/2013	<u>37</u>	NOTICE of Supplemental Authority re: <u>5</u> MOTION to Dismiss <i>Under FRCP 12(b)(6)</i> , <u>8</u> MOTION to Dismiss <i>Under FRCP 12(B)(6)</i> by J.T., Gwen Togonidze, filed. (Attachments: # <u>1</u> Exhibit 1)(Edwards, Jeffrey) [Transferred from Texas Southern on 2/12/2014.] (Entered: 12/19/2013)
12/31/2013	<u>38</u>	NOTICE of Supplemental Authority re: <u>30</u> MOTION to Dismiss <i>on the Basis of Qualified Immunity</i> by J.T., Gwen Togonidze, filed. (Attachments: # <u>1</u> Exhibit)(Edwards, Jeffrey) [Transferred from Texas Southern on 2/12/2014.] (Entered: 12/31/2013)

01/03/2014	<u>39</u>	RESPONSE to <u>38</u> Notice (Other) <i>Plaintiffs' Notice of Supplemental Authority in Response to Livingston's Motion to Dismiss</i> , filed by Brad Livingston, William Stephens, Rick Thaler. (Anastasiadis, Demetri) [Transferred from Texas Southern on 2/12/2014.] (Entered: 01/03/2014)
01/16/2014	<u>40</u>	NOTICE of Supplemental Authority re: <u>5</u> MOTION to Dismiss <i>Under FRCP 12(b)(6)</i> by J.T., Gwen Togonidze, filed. (Attachments: # <u>1</u> Exhibit 1)(Edwards, Jeffrey) [Transferred from Texas Southern on 2/12/2014.] (Entered: 01/16/2014)
01/17/2014	<u>41</u>	RESPONSE to <u>37</u> Notice (Other) ( <i>Plaintiff's Notice of Supplemental Authority</i> ), filed by University of Texas Medical Branch. (Coogan, Kim) [Transferred from Texas Southern on 2/12/2014.] (Entered: 01/17/2014)
01/17/2014	<u>42</u>	Amended MOTION to Dismiss by University of Texas Medical Branch, filed. Motion Docket Date 2/7/2014. (Attachments: # <u>1</u> Proposed Order)(Coogan, Kim) [Transferred from Texas Southern on 2/12/2014.] (Entered: 01/17/2014)
01/23/2014	<u>43</u>	RESPONSE to <u>42</u> Amended MOTION to Dismiss filed by J.T., Gwen Togonidze. (Attachments: # <u>1</u> Proposed Order)(Edwards, Jeffrey) [Transferred from Texas Southern on 2/12/2014.] (Entered: 01/23/2014)
02/12/2014	<u>44</u>	ORDER OF TRANSFER granting <u>9</u> Motion to Transfer Case. Case TRANSFERRED to United States District Court, Eastern District of Texas, Tyler Division. (Signed by Judge Gregg Costa) Parties notified.(dwilkerson, 3) [Transferred from Texas Southern on 2/12/2014.] (Entered: 02/12/2014)
02/12/2014	<u>45</u>	Case transferred in from District of Texas Southern; Case Number 3:13-cv-00229. Original file certified copy of transfer order and docket sheet received. (Entered: 02/12/2014)
02/12/2014	<u>46</u>	NOTICE OF CASE ASSIGNMENT. (mll, ) (Entered: 02/13/2014)
02/13/2014		In accordance with the provisions of 28 USC Section 636(c), you are hereby notified that a U.S. Magistrate Judge of this district court is available to conduct any or all proceedings in this case including a jury or non-jury trial and to order the entry of a final judgment. The form <u>Consent to Proceed Before Magistrate Judge</u> is available on our website. All signed consent forms, excluding pro se parties, should be filed electronically using the event <i>Notice of Consent to Proceed Before Magistrate Judge</i> . (mll, ) (Entered: 02/13/2014)
03/18/2014	<u>47</u>	ORDER granting <u>13</u> Motion for Leave to File first amended complaint. The Clerk of Court shall file the Plaintiffs' first amended complaint as a separate docket entry. Signed by Magistrate Judge John D. Love on 3/18/14. (mjc, ) (Entered: 03/18/2014)
03/18/2014	<u>48</u>	PLAINTIFF'S FIRST AMENDED COMPLAINT against Robert Eason, Todd Foxworth, Brad Livingston, Owen Murray, William Stephens, Texas Department of Criminal Justice, Rick Thaler, University of Texas Medical Branch, filed by J.T., Gwen Togonidze.(mjc, ) (Entered: 03/20/2014)
04/01/2014	<u>49</u>	ORDERED that the cases Webb v. Livingston et al, No. 6:13cv711; Adams et al v Livingston et al, No. 6:13cv712 and Togonidze v Livingston et al, No.

		6:14cv93 are consolidated for discovery and scheduling consistent with the parameters outlined herein. Filings in the consolidated action should be made to the Webb case and the caption will contain all three case numbers. Ordered that a Joint Scheduling Conference is set in the Courtroom of the undersigned at the Federal Courthouse in Tyler, Texas, at 1:30 p.m. on Monday, April 7, 2014. Ordered that the parties shall submit their proposed scheduling order by April 3, 2014; further, that the defendants shall file their response, if any, to Plaintiff's emergency motion to compel responses to request for production from dft UTMB (Webb docket entry #87) by April 3, 2014, in order to take the motion up at the Joint Scheduling Conference. Signed by Magistrate Judge John D. Love on 4/1/2014. (bjc) (Entered: 04/01/2014)
04/08/2014	<u>50</u>	REPORT AND RECOMMENDATION recommending that the Executive Defendants' <u>30</u> motion to dismiss on the basis of qualified immunity should be deferred and carried until the issue of qualified immunity may be decided. Signed by Magistrate Judge John D. Love on 4/8/2014. (bjc) (Entered: 04/08/2014)
04/08/2014	<u>51</u>	REPORT AND RECOMMENDATION recommending that Defendant UTMB's <u>5</u> motion to dismiss under FRCP 12(b)(6) be denied. Signed by Magistrate Judge John D. Love on 4/8/2014. (bjc) (Entered: 04/08/2014)
04/09/2014	<u>52</u>	THIRD REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE recommending that Defendant TDCJ's <u>8</u> motion to dismiss under FRCP 12(b)(6) be denied. Signed by Magistrate Judge John D. Love on 4/9/14. (dlc, ) (Entered: 04/09/2014)
04/23/2014	<u>53</u>	OBJECTION to <u>52</u> Report and Recommendations by Texas Department of Criminal Justice. (Greer, Matthew) (Entered: 04/23/2014)
04/25/2014	<u>54</u>	OBJECTION to <u>51</u> Report and Recommendations by University of Texas Medical Branch. (Lantiegne, Calysta) (Entered: 04/25/2014)
05/01/2014		Motion/Report and Recommendation Assigned to District Judge Michael H. Schneider for disposition re <u>52</u> Report and Recommendations, <u>50</u> Report and Recommendations, <u>51</u> Report and Recommendations. This case remains assigned to the magistrate judge. (mjc, ) (Entered: 05/01/2014)
05/06/2014	<u>55</u>	ORDER ON REPORT AND RECOMMENDATIONS OF THE US MAGISTRATE JUDGE. The Executive Defendants' motion to dismiss on the basis of qualified immunity (Civil Action No. 6:14cv93, docket entry #30) is DENIED as moot. The Executive Defendants' motion to stay and objections to the Plaintiffs' discovery (Civil Action No. 6:14cv93, docket entry #29) is GRANTED in part and DENIED in part, and that discovery strictly limited to the issue of qualified immunity should be allowed to proceed in this case. The specific discovery orders shall be issued in Civil Action No. 6:13cv711. Signed by Judge Michael H. Schneider on 05/05/14. (mll, ) (Entered: 05/06/2014)
05/06/2014	<u>56</u>	ORDER ADOPTING REPORT AND RECOMMENDATIONS OF THE US MAGISTRATE JUDGE. The Third Report and Recommendation <u>52</u> is ADOPTED. T.D.C.J.s <u>8</u> Motion to dismiss is DENIED. Signed by Judge Michael H. Schneider on 05/05/14. (mll, ) (Entered: 05/06/2014)

05/06/2014	<u>57</u>	ORDER ADOPTING REPORT AND RECOMMENDATION OF THE US MAGISTRATE JUDGE. The Second Report and Recommendation <u>51</u> is ADOPTED. U.T.M.B.'s Motions <u>5</u> and <u>42</u> to dismiss are DENIED. Signed by Judge Michael H. Schneider on 05/05/14. (mll, ) (Entered: 05/06/2014)
06/12/2014	<u>58</u>	ORDER STAYING PROCEEDINGS, it is hereby ORDERED that the above-entitled and numbered consolidated cases are STAYED until time as the TDCJ Executive Defendants' interlocutory appeals are decided. Signed by Magistrate Judge John D. Love on 6/12/14. (dlc, ) (Entered: 06/12/2014)

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